

# Board of Contract Appeals

General Services Administration  
Washington, D.C. 20405

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December 16, 2002

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GSBCA 15923-RELO

In the Matter of RICHARD W. ELLIOTT

Richard W. Elliott, FPO Area Europe, Claimant.

Paul Wolfe, Personnel Director, Education Activity, Department of Defense, Arlington, VA, appearing for Department of Defense.

**PARKER**, Board Judge.

The Department of Defense Education Activity (DoDEA) asks whether it may pay the claim of Richard W. Elliott for transportation and subsistence expenses incurred during a stopover in Washington, D.C. on his way to a new assignment in Italy. The answer is "yes."

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## Background

Mr. Elliott is a teacher. At the end of the 2001 school year, DoDEA reassigned Mr. Elliott from M.C. Perry High School, in Iwakuni, Japan, to Naples High School, in Naples, Italy. In order to enter Italy, Mr. Elliott was required to obtain an official no-fee passport with an Italian visa. Because the normal time to obtain such passports by mail was six to eight weeks, DoDEA determined that Mr. Elliott would not be able to obtain a passport in this manner and still meet his reporting date for the start of the new school year. Following the advice of DoDEA's passport agent, Mr. Elliott and his family stopped in Washington, D.C. on the way to Italy to obtain the passport. After obtaining the passport, a process that took five days, Mr. Elliott and family continued their journey to Italy.

Mr. Elliott's claim for reimbursement of expenses incurred during the stopover in Washington, D.C. was initially denied on the basis that his travel orders did not authorize the stopover. After reviewing the matter at Mr. Elliott's request, DoDEA determined that the expenses incurred by Mr. Elliott and his family were "necessary for the transaction of official business" and amended Mr. Elliott's travel orders after-the-fact to authorize the stop in Washington. The amended travel orders specifically stated that the stop was "at Government expense" and that "per diem is authorized."

DoDEA would like to pay Mr. Elliott's claim for reimbursement of costs incurred in connection with his stopover in Washington but has decided first to ask the Board for guidance in the form of an advanced decision.

### Discussion

Section 302-2.1 of the Federal Travel Regulation (FTR), the regulation that governs travel and relocation by Federal employees, including civilian employees of the Department of Defense (DoD), provides as follows concerning allowances for the subsistence and transportation of transferred employees:

Except as specifically provided in this chapter, an agency shall pay per diem, transportation costs, and other travel expenses of the employee in accordance with the provisions of 5 U.S.C. 5701-5709 and chapter 301 of this title.

41 CFR 302-2.1(b) (2001).

Sections 5701-5709 of title 5 of the U.S. Code establish the authority and set the conditions for reimbursing federal employees for transportation and subsistence expenses. Chapter 301 of the FTR implements the statute and sets forth the following general rules:

**Am I eligible for payment of transportation expenses?**

Yes, when performing official travel, including local travel.

**When am I eligible for an allowance (per diem or actual expense)?**

When:

- (a) You perform official travel away from your official station, or other areas defined by your agency;
- (b) You incur per diem expenses while performing official travel; and
- (c) You are in a travel status for more than 12 hours.

41 CFR 301-10.1, -11.1. These regulations mean that federal employees, including transferred employees, are eligible for payment of transportation and subsistence expenses when they perform "official travel." See Patricia A. King, GSBCA 15847-TRAV (Nov. 13, 2002); Brian E. O'Connell, GSBCA 15779-TRAV (Sept. 25, 2002).

We agree with DoDEA that Mr. Elliott's travel to Washington, D.C. for the purpose of obtaining a special passport should be considered official travel. Stopping in Washington on his way to Italy eliminated the six to eight week waiting period for obtaining the passport by mail and allowed Mr. Elliott to get to his new duty station in time to start the new school year. All of this was clearly in the Government's interest.

Procedurally, there is no problem with DoDEA's decision to amend Mr. Elliott's travel orders after-the-fact:

**Must I have authorization to travel?**

Yes, generally you must have written or electronic authorization prior to incurring any travel expense. If it is not practicable or possible to obtain such authorization prior to travel, your agency may approve a specific authorization for reimbursement of travel expenses after travel is completed.

41 CFR 301-2.1. DoD's Joint Travel Regulations (JTR) say essentially the same thing. JTR C3053 (June 1, 2001).

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Decision

DoDEA should pay Mr. Elliott's claim for transportation and subsistence expenses incurred in connection with the stopover in Washington, D.C.

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ROBERT W. PARKER  
Board Judge